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October 27, 2011

TESTIMONY TO JUDICIARY STANDING COMMITTEE ON HOUSE BILL 5093

Presented by

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Thank you for the opportunity to provide input

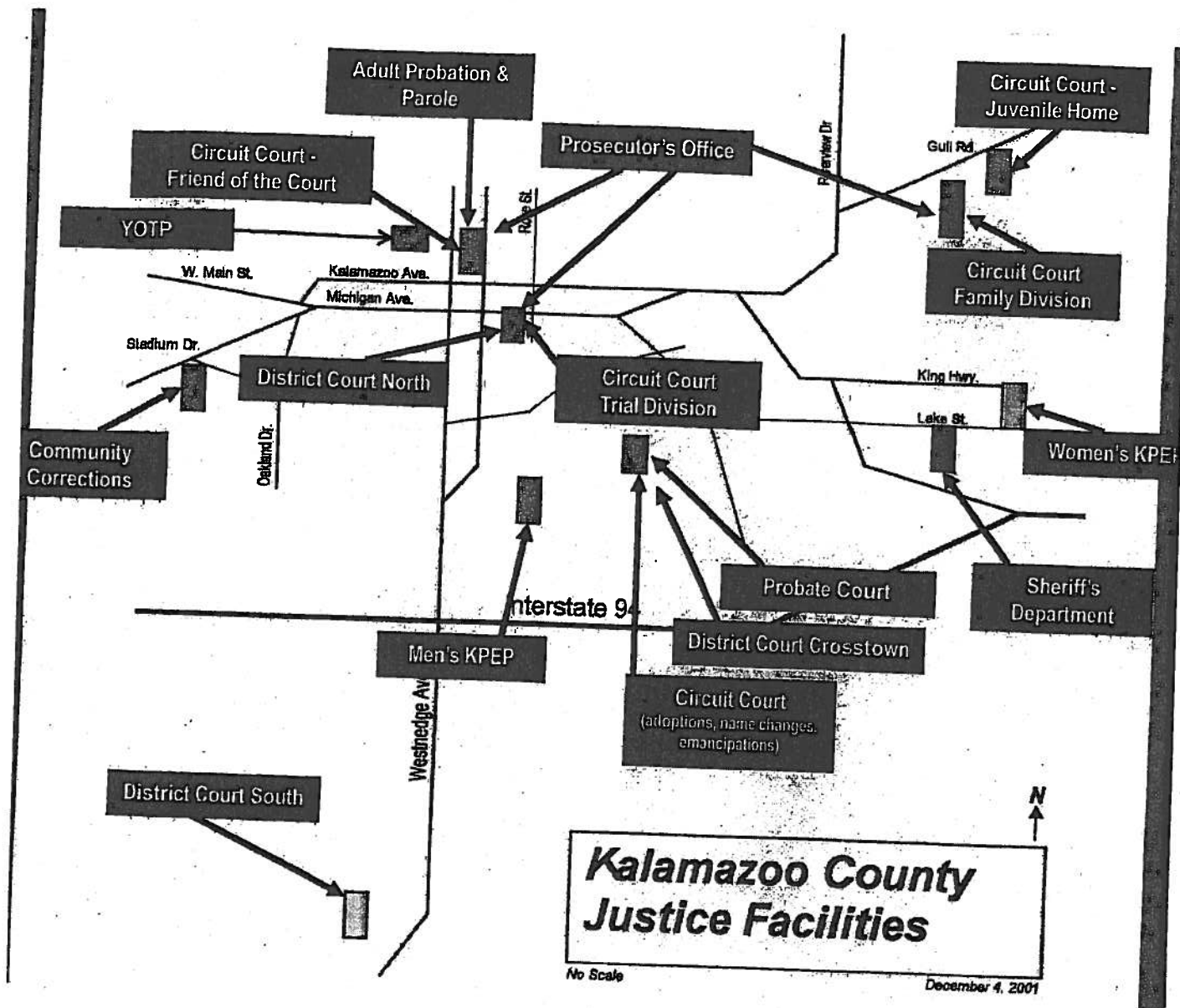
Testimony
To
Judiciary Standing Committee
Rep. John Walsh, Chair

RE: HB 5093 Court; judges' certain probate court and district court judgeships
reduce in number

October 27, 2011

PREMISE: HB 5093 recommends the elimination of a Kalamazoo County probate judgeship through attrition. We submit that the proposed bill is not consistent with the recently released Judicial Resource Recommendation (JRR), the Weighted Caseload study completed in 2010, the recommendation of the Supreme Court or the JRR's of 2003, 2007 or 2009. The result of such elimination would undo collaborative efforts of the Probate and Circuit courts in process since 1998.

- Kalamazoo County currently has 3 probate judges. Two of which are permanently assigned to the Family Division of Circuit Court.
- A concurrent jurisdictional plan was entered into by the Kalamazoo Probate and Circuit courts in 2003 whereby the Family Division (two Probate and one Circuit) judges hear all juvenile delinquency, abuse/neglect, domestic relations, personal protection orders and most adoptions and parental waivers.
- The third Probate judge primarily hears traditional probate matters but does hear circuit court matters- e.g. name changes, adoptions, conducts financial show causes and guardianship reviews. This Probate judge assists the Family Division upon request.
- All agree that the Family Division court is the busiest court in Kalamazoo County.
- The attached documentation clearly indicates the previous Judicial Resource Recommendations (JRR) have consistently recommended the elimination of a district court judgeship in Kalamazoo County. In 2003 and 2009, the SCAO recommended the reduction through attrition of one district judgeship. In 2007, the Michigan Supreme Court recommended the elimination of one district judgeship through attrition. In 2005, while not making any specific recommendation it is noted that the report shows a net judicial excess in district court of 1.64.
- The 2011 JRR actually indicates a LACK of judicial resource in Family Division of at least one judge.
- Losing a probate court judge would fundamentally alter the concurrent jurisdictional plan in place, and arguably working fine, since 2003- actually discussion, planning and alteration commenced back in 1998.
- The concurrent jurisdictional plan was approved by the Chief Judge of Probate, Chief Judge of Circuit and the County Clerk.



2003 Judicial Resources Recommendations

8th District Court – Kalamazoo County

SUMMARY AND RECOMMENDATIONS:

We recommend the reduction of one judgeship for the 8th District Court by attrition.

The statistical analysis continues to show an excess of judges in the 8th District Court, in spite of a reversal of the downward five-year trend in total case filings and an increasing population.

The 8th District Court serves Kalamazoo County. It is divided into three election divisions. Between 1990 and 2000, the population of the jurisdictions served by the 8th district increased by 6.8 percent, from 223,411 to 238,603. The estimated population increased to 241,471 in 2002, an increase of 1.2 percent from 2000.

Currently the 8th District Court is served by seven judges. Kalamazoo County also has a total of 8 circuit and probate judges. The following tables provide a breakdown of judicial resources in Kalamazoo County.

Judicial Workload Estimates for the 8 th District Court			
Court	One Year Adjusted Weighted Caseload	Three Year Adjusted Weighted Caseload	Current Judgeships
D08 – Kalamazoo County	5.48	5.13	7.0

Judicial Workload Estimates for all Courts Within the 8th District Court			
Court	Three Year Adjusted Weighted Caseload	Current Judgeships	Net Judicial Need
D08 - Kalamazoo County	5.13	7.00	-1.87
C09 and Kalamazoo Probate	7.86	8.00	-0.14
D08, C09, and Kalamazoo Probate Totals	12.99	15.00	-2.01

**2005 Judicial Resources Recommendations
8th District Court – Kalamazoo County**

SUMMARY AND RECOMMENDATIONS:

We recommend no change in judgeships for the 8th District Court at this time.

The statistical analysis shows an excess of 1.64 judges in the 8th District Court. In 2003, the excess was 1.87 judges and a recommendation was made to eliminate one judgeship by attrition. This recommendation was not enacted. Since 2000, the caseload and statistical need for judges have continued to increase. These trends are supported by the continued increase in the population. As a result, we recommend no change in judgeships at this time.

Between 1990 and 2000, the population of Kalamazoo County increased by 6.8 percent, from 223,411 to 238,603. The estimated population increased to 240,724 in 2004, an increase of 0.9 percent from 2000.

Currently the 8th District Court is served by seven judges. Kalamazoo County also has a total of eight circuit and probate judges.

The following table provides additional information on the workload estimates for all courts within the 8th District Court and all courts within the 9th Circuit.

Judicial Workload Estimates for all Courts Within the 9th Circuit

Court	Three Year Adjusted Weighted Caseload	Current Judgeships	Net Judicial Need (+) or Excess (-)
D08 – Kalamazoo County	5.36	7.00	-1.64
C09 and Kalamazoo County Probate	8.17	8.00	+0.17
Total Judicial Resources	13.54	15.00	-1.46

Totals and differences were calculated prior to rounding.

CASE RELATED FACTORS:

Total case filings in the 8th District Court increased by 18.2 percent between 2000 and 2004, while statewide the total case filings decreased by 6.9 percent. The largest percentage increase occurred in nontraffic civil infractions, which increased by 109.0 percent. Statewide these cases increased by 150.2 percent. Felony cases increased by 30.0 percent, nontraffic misdemeanor cases increased by 5.6 percent, traffic civil infractions increased by 28.3 percent, and civil cases increased by 23.8 percent. Traffic misdemeanor and OUIL were the only case groups to decrease, by 21.8 percent and 9.9 percent, respectively.

The following tables give a more complete description of caseload trends in the 8th District Court.

2007 Judicial Resources Recommendations

9th Circuit Court – Kalamazoo County
 Kalamazoo County Probate Court
 8th District Court – Kalamazoo County

SCAO Recommendation: None.

Supreme Court Recommendation: Eliminate through attrition one district judgeship.

The current weighted caseload results indicate a combined excess of 1.44 judges for all three courts. In 2003, the district court had a judicial excess of 1.87 judges and the SCAO recommended a reduction of one district judgeship. One district judgeship should be eliminated, which would result in a judicial excess of 0.44 judges for the combined three courts.

The population is stable, case filings in the circuit and probate courts have decreased, and case filings in the district courts have increased. The remaining 14 judges should be sufficient to handle the current and future workload.

The population of Kalamazoo County increased by 6.8 percent between 1990 and 2000, from 223,411 to 238,603. From 2000 to 2006 it increased an additional 0.9 percent, to an estimated 240,720.

Judicial Workload Estimates

Courts	Three Year Weighted Caseload	Current Judgeships	Net Judicial Need (+) or Excess (-)
C09 and Kalamazoo County Probate Court	7.66		
8 th District Court	5.90		
Totals	13.56	15.00	-1.44

Combined case filings in circuit and probate courts in Kalamazoo County decreased by 8.3 percent between 2000 and 2006. Case filings in district court increased by 16.2 percent between 2000 and 2006.

Circuit and Probate Filing Trends 2000-2006

Case Category	2000	2001	2002	2003	2004	2005	2006	Percent Change
Circuit Civil	721	704	711	693	705	605	693	-3.9%
Circuit Criminal	1,550	1,679	1,692	1,591	1,914	2,131	2,051	32.3%
Circuit Family	6,901	7,221	6,751	6,063	6,284	5,492	5,899	-14.5%
Probate	1,283	1,029	941	978	1,027	995	941	-26.7%
Total	10,455	10,633	10,095	9,325	9,930	9,223	9,584	-8.3%

2009 Judicial Resources Recommendations

9th Circuit Court – Kalamazoo County Kalamazoo County Probate Court 8th District Court – Kalamazoo County

SUMMARY AND RECOMMENDATIONS:

The SCAO recommends the reduction through attrition of one district judgeship.

There are 15 judges in Kalamazoo County made up of 5 circuit judges, 3 probate judges, and 7 district judges.

In 2003, the SCAO recommended the elimination of one district judgeship through attrition. In 2007, the Michigan Supreme Court recommended the elimination of one district judgeship through attrition. The Legislature did not enact these recommendations.

The weighted caseload results indicate a combined excess of 2.16 judges for all three courts.

Judicial Workload Estimates

Courts	Three Year Weighted Caseload	Current Judgeships	Net Judicial Need (+) or Excess (-)
C09 and Kalamazoo County Probate Court	7.18		
8 th District Court	5.66		
Totals	12.84	15.00	-2.16

Totals and differences were calculated before rounding.

CASE-RELATED FACTORS:

Between 2003 and 2008, total case filings in the 9th Circuit Court, Kalamazoo County Probate Court, and 8th District Court decreased by an average of 1.3 percent per year, from 88,605 to 82,831.

Case Filings

Year	Circuit				Probate	District	Total
	Appeals	Criminal	Civil	Family			
2003	73	1,591	620	6,049	976	79,296	88,605
2004	84	1,914	621	6,277	1,024	80,608	90,528
2005	58	2,131	547	5,490	994	82,326	91,546
2006	55	2,051	638	5,894	940	79,257	88,835
2007	77	1,782	609	5,426	965	80,670	89,529
2008	56	1,827	691	6,074	973	73,210	82,831

This table includes case filings in all courts in Kalamazoo County. Case groups are described on page 45.

2011 Judicial Resources Recommendations Kalamazoo County

Based on the JNAC methodology and an extended analysis, the SCAO estimates that the courts in this county can operate with 14.1 judges. The SCAO recommends that the number of judgeships be reduced by attrition from 15 to 14.

Current Judgeships	15
2011 SCAO Recommendation	-1 by attrition
Remaining Judgeships	14

The 9th Circuit Court encompasses Kalamazoo County. There are 15 judges: 5 circuit judges, 3 probate judges, and 7 district judges.

In 2003, the SCAO recommended the elimination of one district judgeship through attrition.

In 2007, the Michigan Supreme Court recommended the elimination of one district judgeship through attrition.

In 2009, the SCAO recommended the reduction through attrition of one district judgeship.

The Legislature did not enact these recommendations.

In 2007 and 2009, the weighted caseload results indicated a judicial excess of 1.4 and 2.2, respectively. In 2011, using the new methodology approved by the JNAC, the SCAO found that the court has a judicial excess of 0.9.

Year	Judicial Excess	Recommendation	Michigan Supreme Court Additional Recommendations
2007	-1.4	No change	-1 by attrition **
2009	-2.2	-1 by attrition	
2011	-0.9	-1 by attrition	

The population of Kalamazoo County increased by 6.9 percent between 1990 and 2000 and by 4.9 percent between 2000 and 2010.

Year	Population
1990	223,411
2000	238,603
2010	250,331

Source: <http://www.census.gov/>.

****Referring to 2007 Judicial Resources Recommendation report indicates that Supreme Court Recommendation: Eliminate through attrition one district judgeship.**